THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

W.P.No.16377 of 2007

Date:02.08.2007

Between:

A.Chokka Lingam

.. PETITIONER

AND

The Regional Transport Authority and others.

..RESPONDENTS

ORDER:

The petitioner submitted an application for stage carriage permit on a town service route from Tirupathi Municipal Bus Stand to Tiruchanoor, before the first respondent. The first respondent rejected the application on the ground that the route was not formulated, as contemplated under Section 68(3)(ca) of the Motor Vehicles Act, 1988 (for short 'the Act'). Aggrieved thereby, the petitioner preferred an appeal being A.P.28/05 before the State Transport Appellate Tribunal, the third respondent. The appeal was allowed through orders, dated 25.01.2007 and the matter was remanded to the first respondent, for fresh consideration. The petitioner challenges the same. According to him, once the third respondent disagreed with the reason assigned by the first respondent as to the formulation of route, permit ought to have been granted straight away, instead of remanding the matter to the first respondent.

Heard the learned counsel for the petitioner and the learned Government Pleader for Transport.

Grant of stage carriage permits is prohibited on a route except where it is formulated in accordance with the relevant provisions of law. Exemption is carved out where the permits have already been granted on the same route. In the instant case, the first respondent took the view that the route in question was not formulated and the petitioner cannot be granted the stage carriage permit. The third respondent took into account the fact that several permits were granted on the route and in that view of the matter, the prohibition contained under Section 68(3)(ca) of the Act does not apply. After taking such a view, the third respondent remanded the matter to the first respondent.

Had it been a case where the application of the petitioner was considered on all aspects and rejected, there would have been feasibility for the third respondent to grant permit straight away, in case the views expressed by the first respondent were not found correct. The record discloses that having taken the view that the permit cannot be granted to the petitioner on the ground that the route was not formulated, it did not choose to deal with other aspects, such as overlapping of any notified route, etcetera. It was, in this context, that the third respondent thought it fit to remand the matter after holding that the view expressed by the first respondent as to the formulation of the route is not correct. The examination of the question, such as overlapping of the route is an exercise to be undertaken by the primary authority i.e. the

first respondent. Such aspects cannot be dealt with for the first time at the appellate stage. Therefore, this Court does not find any basis to interfere with the impugner order.

For the foregoing reasons, the writ petition is dismissed. However, the first respondent is directed to dispose of the matter, within a period of three months, whichever is earlier. It shall be open to the petitioner to plead such grounds, as are available to it, before the first respondent and the same shall be taken into account by him. There shall be no order as to costs.

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02.08.2007

kdl